

Notice of Allowability	Application No.	Applicant(s)
	09/902,056	ANNAPRAGADA, RAO VENKATESWARA
	Examiner Asok K. Sarkar	Art Unit 2829

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to Amendment filed 10/28/2003.
2. The allowed claim(s) is/are 26,27 and 32-36.
3. The drawings filed on 07 September 2001 are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

5. Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) The translation of the foreign language provisional application has been received.
6. Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No. _____.
 - (b) including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1 <input type="checkbox"/> Notice of References Cited (PTO-892)	5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____.
3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____	7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment
4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material	8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance
	9 <input type="checkbox"/> Other

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 02, 2003 has been entered.

Response to Amendment

2. Applicant's explanation of the instant invention in pointing the difference with the cited prior art was found to be convincing to the Examiner. Additionally, Applicant's amendments of claims 26 and 32 corrects the problems noted in Paper No. 08/03, paragraph 3 and accordingly, the rejection to claims 26, 27 and 32 – 36 based on 35 U. S. C. 102 (b) is withdrawn.

Allowable Subject Matter

3. Claims 26, 27 and 32 - 36 are now allowed.
4. The following is an examiner's statement of reasons for allowance:

Claims 26, 27 and 32 – 36 recite, *inter alia*, a device comprising a layer of a nanoporous material wherein the porous layer has a continuous range of density that decreases as the nanoporous layer tends closer to the substrate. The art of record does not disclose or anticipate the above limitation in combination with other claim

elements nor would it be obvious to modify the art of record so as to form a device including the above limitation.

EXAMINER'S AMENDMENT

5. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The Applicant's representative was contacted in order to receive authorization to cancel the nonelected claims. Authorization for this examiner's amendment was given in a telephone interview with Peter Zawilski on December 18, 2003.

The application has been amended as follows:

Cancel claims 37 – 40.

Conclusion

6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asok K. Sarkar whose telephone number is 703 308 2521(after 1/13/2004 the number is 571 272 1970). The examiner can normally be reached on Monday - Friday (8 AM- 5 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kammie Cuneo can be reached on 703 308 1233 (after 1/13/2004 the number is 571 272 1957). The fax phone number for the organization where this application or proceeding is assigned is 703 308 7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 4918.

Asok K. Sarkar
December 18, 2003



KAMMIE CUNEO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800